

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Momchilov *et al.*

Application number: 10/711,699

Filed: September 30, 2004

For: *System and Method for Data Synchronization
Over a Network Using a Presentation Level
Protocol*

Attorney Docket No.: 2006579-0315 (CTX-102)

Art Unit: 2451

Confirmation No.: 5698

Examiner: Lindsey, Matthew S.

MS AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Examiner:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Responsive to the Final Office Action mailed on April 8, 2010, and accompanying a Notice of Appeal to the Board of Appeals and Interferences in the United States Patent and Trademark Office appealing the rejection of Claims 1-9, 11-14, 19-32, 34, 40 and 44-46 in the above-referenced case. Applicants request that a pre-appeal brief review be conducted and that consideration be given to the following remarks, pursuant to the July 12, 2005, Official Gazette Notice titled "New Pre-Appeal Brief Conference Pilot Program."

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

Applicants respectfully submit that the Examiner's rejection contains clear errors of fact. Claims 19-24 and 44-45 are rejected under 35 USC § 101 for failing to claim statutory subject matter. Claims 1-4, 11-13, 19-20, 25, 27-28 and 44-46 are rejected under 35 USC § 103(a) as unpatentable over U.S. Patent Publication No. 2004/0128412 to Harrison ("Harrison") in view of U.S. Patent No. 7,464,133 to Kasasaku ("Kasasaku") and in further view of U.S. Patent No. 7,337,238 to Nishio ("Nishio.") Claims 5 and 26 are rejected under USC § 103(a) as unpatentable over Harrison in view of Kasasaku in view of Nishio and in further view of U.S. Patent No. 7,024,501 to Wright ("Wright.") Claims 6, 9, 21-22, 29 and 32 are rejected under USC § 103(a) as unpatentable over Harrison in view of Kasasaku in view of Nishio and in further view of U.S. Patent No. 7,325,026 to North ("North.") Claims 7-8, 23-24 and 30-31 are rejected under USC § 103(a) as unpatentable over Harrison in view of Kasasaku in view of Nishio and in further view of U.S. Patent No. 7,051,108 to Jones ("Jones.") Claims 14, 34 and 40 are rejected under USC § 103(a) as unpatentable over Harrison in view of Kasasaku in view of Nishio and in further view of U.S. Patent No. 6,895,588 to Ruberg ("Ruberg.") Claims 1-9, 11-14, 19-32, 34, 40 and 44-46 are pending of which Claims 1, 19 and 25 are independent.

I. Claims 19-24 and 44-45 claim statutory subject matter

The Examiner's assertion that Claims 19-24 and 44-45 fail to claim statutory subject contains clear error. As stated in the previous office action response, the functions carried out by the elements recited in Claim 19 are the result of the execution of the components on a client system or a server system. Execution is not possible without the presence of a processor, thus the client system and server system contemplate comprising at least a processor.

In addition to the above, Applicants wish to point out the Claim 19 further requires a device that interfaces with the client system which receives a communication from the device. Further, the device is synchronized with a collection of data from a user session using an application executed by a user session hosted on the server system. In light of these remarks, Applicants respectfully submit that the Examiner's assertion that Claims 19-24 and 44-45 fail to claim statutory subject matter contains clear error because these claims are tied to a particular machine as well as a device.

II. Harrison and Kasasaku do not describe mapping a device into a user session in response to an event notification that a device is in communication with a client system

The Examiner's assertion that Harrison describes mapping a device into a user session in response to an event notification that a device is in communication with a client system, contains clear error because it wrongly suggests that a request to synchronize a PDA with a host PC is the same as an event notification that a device is in communication with a client system. Harrison describes synchronizing a host PC calendar with a calendar on a PDA in response to receiving a synchronization request. While Harrison further describes other methods for transferring information to and from a peripheral device responsive to a request, at no point does Harrison describe transferring information responsive to being notified that a device is in communication with a client system. A request for information or a request to perform an action is not the same as the claimed event notification because it does not occur in response to a device establishing communication with a client system. Furthermore, a request is not inherently the same as the event notification because the request does not occur in response to a device establishing communication with a client system, nor does it inform as to whether a device is in communication with a client system via a USB connection. Thus, Harrison fails to teach or suggest this limitation of the claimed invention.

As argued previously and reiterated here with force, Kasasaku does not teach or suggest mapping responsive to an event notification that a device is in communication with a client system. *See* Office Action Response mailed on January 11, 2010. The Examiner relies on Harrison for this limitation.

III. Harrison and Kasasaku do not describe binding the event notification to a port number to generate binding information

The Examiner admits that Harrison does not teach or suggest binding the event notification to a port number to generate binding information. *See* Office Action mailed on April 8, 2010, page 4. The Examiner relies on Kasasaku to cure this deficiency in Harrison.

The Examiner's assertion that Kasasaku teaches or suggests binding the event notification to a port number to generate binding information contains clear error because the Examiner incorrectly equates binding "devices to virtual communication channels based on received events" with binding an event notification to a port number. *See id.* At best, Kasasaku

describes mapping a physical I/O port of a client to mapping information generated when a virtual I/O port on a server starts. The virtual I/O port of Kasasaku sets the address of a communication line between the physical I/O port and the virtual I/O port and the port numbers of the physical I/O ports. *See* Kasasaku, col. 5, lines 25-53; col. 9, lines 10-16. Mapping a physical I/O port to a virtual I/O port and setting the address of a communication line is not the same as binding an event notification to a port number. While the Examiner is correct that Kasasaku describes mapping in response to an event notification, the Examiner incorrectly presumes this is the same as binding the actual event notification to a port number. At no point does Kasasaku teach or even suggest that the received event notification is or should be bound to a port number. Thus, Kasasaku fails to teach or suggest this limitation of the claimed invention.

IV. Nishio fails to cure the deficiencies of Harrison and Kasasaku

Like Harrison and Kasasaku, Nishio also fails to teach or suggest mapping a device into a user session in response to an event notification that a device is in communication with a client system, or binding the event notification to a port number to generate binding information. The Examiner cites Nishio merely to address an event notification that includes a device name, a product identifier and a universal identifier. While Nishio does describe event notifications, at no point does Nishio describe mapping a device into a user session responsive to the claimed event notification, or binding an event notification to a port number. Thus, Nishio fails to cure the deficiencies of Harrison and Kasasaku.

Conclusion

In light of the above arguments, Applicants respectfully submit that Claims 1, 19 and 25 are patentable over any combination of Harrison, Kasasaku and Nishio. Claims 2-4, 11-13, 20, 27-28 and 44-46 are also patentable over any combination of Harrison, Kasasaku and Nishio because these claims depend on and incorporate the limitations of Claims 1, 19 and 25. Dependent Claims 5-9, 14, 21-24, 26, 29-32, 34 and 40 depend on and incorporate the limitations of Claims 1, 19 and 25, therefore they are also patentable over any combination of Harrison, Kasasaku and Nishio. Wright, North, Jones and Ruberg fail to cure the deficiencies of Harrison, Kasasaku and Nishio, therefore Dependent Claims 5-9, 14, 21-24, 26, 29-32, 34 and 40 are

patentable over any combination of Harrison, Kasasaku, Nishio, Wright, North, Jones and Ruberg.

Applicants further submit that, in light of the above arguments, Claims 19-24 and 44-45 claim patentable subject matter. Applicants respectfully request that the Examiner withdraw all rejections and pass the claims to issuance.

Respectfully submitted,
CHOATE, HALL & STEWART LLP

Date: August 9, 2010

/Kellan D. Ponikiewicz/
Kellan D. Ponikiewicz
Registration Number: 59,701

Patent Group
CHOATE, HALL & STEWART LLP
Two International Place
Boston, MA 02110
Phone: (617) 248-5000
Fax: (617) 502-5002